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In re Application of	:	NOTIFICATION
CORDEMANS DE MEULENAER et al.	:	
Application No.: 10/533,679	:	
PCT No.: PCT/US03/35029	:	
Int. Filing Date: 04 November 2003	:	
Priority Date: 04 November 2002	:	
Attorney Docket No.: ASHL001A	:	
For: DEVICE AND PROCESS FOR	:	
TREATING A LIQUID MEDIM USING	:	
ULTRASOUND IN PREVENTING THE	:	
GROWTH OF HYPERPROLIFERATIVE OR	:	
INFECTED CELLS	:	

This notification is in response to applicants' submission filed 16 November 2006, which included, *inter alia*, a Form PCT/IB/306 for five inventors.

#### **BACKGROUND**

On 04 November 2003, applicant filed international application PCT/US03/35029, which designated the United States and claimed a priority date of 04 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 May 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 May 2005.

On 03 May 2005, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 28 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 31 May 2006, applicants filed a submission including a declaration of inventors and the surcharge under 37 CFR 1.492(h).

On 11 October 2006, a Notification was mailed indicating that the declaration filed 31 May 2006 did not list the inventorship set forth in the international application and that the declaration executed the wrong application number (11/533,679 rather than 10/533,679). The Notification indicated that a Form PCT/IB/306 for only one of the inventors appeared in the application file. The Notification also indicated that a new declaration of inventors was required.

On 16 November 2006, applicant filed the instant submission which was accompanied by, *inter alia*, a Form PCT/IB/306 for five inventors.

### **DISCUSSION**

37 CFR 1.41(a)(4) states:

The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration filed 31 May 2006 lists the inventorship set forth in the international application. The declaration lists three of the eight inventors listed in the international application. A Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International Bureau for each of the remaining five inventors indicating that each inventor has been removed has been provided.

However, as noted in the Notification mailed 11 October 2006, the declaration filed 31 May 2006 does not comply with 37 CFR 1.497(a)-(b) since it executes the wrong application; it executes application number 11/533,679 rather than application number 10/533,679.

### **CONCLUSION**

Applicants are required to file a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) within a time limit of ONE MONTH from the date of this decision or within the time remaining in the response set forth in the NOTIFICATION mailed 28 November 2005, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the NOTIFICATION mailed 28 November 2005 may be extended under 37 CFR 1.136(a).

The declaration must execute the correct application.

Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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